

Joint Standing Committee on Judiciary

PUBLIC 464 **An Act To Limit the Early Release of Persons Convicted of Certain Crimes** **LD 1177**

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| <u>Sponsor(s)</u> WOODCOCK | <u>Committee Report</u> OTP-AM | <u>Amendments Adopted</u> S-428 |
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Public Law 2005, chapter 464 addresses the proposed release of a person found not criminally responsible of murder or a Class A crime by reason of insanity. When the head of the institution in which the person is placed determines that the person may be released, the annual report must include a statement describing the supervision that would be necessary for the release. Chapter 464 requires the monitoring of psychoactive medication. The report provided to the Commissioner of Health and Human Services, which is then forwarded to the court, must contain details of the supervision the Department of Health and Human Services will provide, specifically including measures the department will take to provide psychoactive medication monitoring. If the court orders the person to be released, the order that provides for the release of the person must include the details of the supervision the department will provide, specifically including the measures the department will take to provide psychoactive medication monitoring.

PUBLIC 526 **An Act To Support Sibling Rights in Child Welfare Custody Matters** **LD 1682**

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| <u>Sponsor(s)</u> ANDREWS | <u>Committee Report</u> OTP-AM | <u>Amendments Adopted</u> S-500 |
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Public Law 2005, chapter 526 requires the court to order sibling visitation for children who are the subjects of child protection proceedings when it is reasonable, practicable and in the best interests of the children involved to do so. It also requires the Department of Health and Human Services to make reasonable efforts to obtain from prospective adoptive parents an agreement to maintain visitation with a child's siblings after the adoption of the child. It authorizes a child, in a child protection action, to request visitation rights with a sibling from whom the child has been separated as a result of the child protection action.

PUBLIC 529 **An Act To Amend the Laws Relating to Corporations, Limited Partnerships, Limited Liability Companies and Limited Liability Partnerships** **LD 1874**

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| <u>Sponsor(s)</u> SIMPSON | <u>Committee Report</u> OTP-AM | <u>Amendments Adopted</u> H-831 |
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Public Law 2005, chapter 529 makes changes to business entity filing fees to be consistent with changes that were made as part of Public Law 2003, chapter 631 and Public Law 2005, chapter 12. Additionally, chapter 529 makes corrections to the time period an entity has to replace its registered agent upon resignation from 30 to 60 days.

PUBLIC 531 **An Act Relating to Mergers and Consolidations of Corporations** **LD 2034**
EMERGENCY **without Capital Stock**

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| <u>Sponsor(s)</u> CUMMINGS | | <u>Committee Report</u> OTP | | <u>Amendments Adopted</u> |
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Public Law 2005, chapter 531 clarifies that a corporation without capital stock formed under the Maine Revised Statutes, Title 13 may merge or consolidate with or into a nonprofit corporation formed under Title 13-B.

Public Law 2005, chapter 531 was enacted as an emergency measure effective April 4, 2006.

PUBLIC 538 An Act Regarding Sexual Assault Forensic Examinations LD 1873

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| <u>Sponsor(s)</u> SIMPSON | | <u>Committee Report</u> OTP-AM | | <u>Amendments Adopted</u> H-846 |
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Public Law 2005, chapter 538 authorizes a forensic examination on an unconscious alleged gross sexual assault victim if a reasonable person would conclude that exigent circumstances justify the exam. The forensic examination kit must be identified without specifying the alleged victim's name and stored as required under current law. The law enforcement agency involved must notify the appropriate district attorney that the examination has been conducted and a kit has been completed.

If the alleged victim does not regain consciousness within 60 days and therefore cannot decide whether to report the alleged offense, the State may file a motion in District Court relating to storing or processing the examination kit. The District Court may order continued storage of the kit, may order it to be sent to the Maine State Police Crime Laboratory for processing or may order such other disposition that the court determines is just. The court may conduct hearings confidentially and in camera and impound pleadings and other records related to them.

PUBLIC 540 An Act To Give Superior Court Clerks and Deputy Clerks the LD 2002
EMERGENCY Authority To Issue Process for the Arrest of Persons Charged with
Crimes

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| <u>Sponsor(s)</u> | | <u>Committee Report</u> OTP | | <u>Amendments Adopted</u> |
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Public Law 2005, chapter 540 empowers the Chief Justice of the Superior Court to grant to Superior Court clerks and deputy clerks the same statutory authority to issue process for the arrest of persons charged with crimes that has been given to District Court clerks, in view of the changes to the court's rules and procedures regarding the initiation in the Superior Court of trials of felony and related misdemeanor crimes.

Public Law 2005, chapter 504 was enacted as an emergency measure effective April 5, 2006.

PUBLIC 543 An Act To Establish the Uniform Partnership Act and the Uniform LD 1609
Limited Partnership Act

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| <u>Sponsor(s)</u> | <u>Committee Report</u> | <u>Amendments Adopted</u> |
| HOBBS | OTP-AM | S-506 |

Public Law 2005, chapter 543 repeals the existing Uniform Partnership Act and enacts the Revised Uniform Partnership Act of 1997 (RUPA) as the new Uniform Partnership Act. It also repeals the Uniform Limited Partnership Act and enacts the Maine Revised Uniform Limited Partnership Act (2001). Chapter 543 takes effect July 1, 2007.

PUBLIC 544 An Act To Protect Drivers' Privacy by Clarifying Ownership of LD 1885
Data Recorded by Motor Vehicle Data Recorders

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| <u>Sponsor(s)</u> | <u>Committee Report</u> | <u>Amendments Adopted</u> |
| SIMPSON | OTP-AM | H-876 |

Public Law 2005, chapter 544 provides that data recorded by an event data recorder in a motor vehicle are the property of the owner of the motor vehicle and may not be downloaded or accessed by anyone other than the owner, with certain exceptions. The exceptions are:

1. The owner of the motor vehicle or the owner's agent or legal representative consents to the retrieval of the information;
2. A court of competent jurisdiction in this State orders the production of the data;
3. For purposes of improving motor vehicle safety, security or traffic management, including medical research on the human body's reaction to motor vehicle crashes, as long as the identity of the owner or driver is not disclosed in connection with that retrieved data;
4. The data are retrieved by a licensed motor vehicle dealer or by an automotive technician for the purpose of diagnosing, servicing or repairing the motor vehicle;
5. The data are retrieved for the purpose of determining the need for or facilitating emergency medical response in the event of a motor vehicle crash;
6. The data are retrieved by a law enforcement officer acting pursuant to authority recognized under applicable statutory or constitutional law; and
7. The data are requested as part of routine discovery.

If the event data recorder is capable of recording or transmitting the motor vehicle's location as part of a subscription service, that information must be disclosed in the subscription service agreement. The limitation on the downloading and accessing of data does not apply to subscription services meeting the service subscription agreement disclosure requirement.

The manufacturer of a new motor vehicle that contains an event data recorder and that is sold or leased in this State shall disclose the presence of the event data recorder in the owner's manual for that motor vehicle.

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The duty of an insured to cooperate with the insurer in the investigation of any accident or claim under the policy is not affected by the new provisions.

PUBLIC 557 An Act To Amend the Procedures Used in Criminal Proceedings LD 1679
Involving Victims with Developmental Disabilities

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| <u>Sponsor(s)</u> | <u>Committee Report</u> | <u>Amendments Adopted</u> |
| TUTTLE | OTP-AM | H-845 |
| HOBBINS | | |

Current law allows into evidence certain out-of-court statements made by minors describing sexual contact. Public Law 2005, chapter 557 extends the admissibility into evidence of such statements to those made by persons with developmental disabilities.

PUBLIC 564 An Act To Replace the Common Enemy Rule with Regard to LD 816
Changing the Flow of Surface Water

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| <u>Sponsor(s)</u> | <u>Committee Report</u> | <u>Amendments Adopted</u> |
| ANDREWS | OTP-AM | S-542 |

Public Law 2005, chapter 564 changes the applicable rule governing alteration of surface water flow that affects another person's land. Existing Maine case law applies the "common enemy rule" to define a landowner's responsibility for altering the flow of surface water, also known as "diffuse surface water," that affects another's land. Chapter 564 adopts the "reasonable use rule;" it establishes as a nuisance the unreasonable use of a person's land that results in the altering of the flow of surface water that unreasonably injures another's land or that unreasonably interferes with the reasonable use of another's land. An action must be commenced within 3 years after the cause of action accrues. Chapter 564 takes effect January 1, 2007 and applies to actions for which the cause of action accrues on or after that date.

PUBLIC 566 An Act To Allow the Department of Health and Human Services LD 1743
EMERGENCY To Locate Parents Who Are Delinquent in Child Support
Payments through Information Related to Cellular Telephones

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| <u>Sponsor(s)</u> | <u>Committee Report</u> | <u>Amendments Adopted</u> |
| PLOWMAN | OTP-AM | S-535 |

Public Law 2005, chapter 566 is based on the current law that authorizes the Department of Health and Human Services to conduct a data match with financial institutions for the purpose of locating child support obligors.

Chapter 566 allows the department to submit a list of child support obligors to wireless service providers to be used to conduct computerized matches with the wireless service providers' account holders. The wireless service providers must provide in return lists of the matched names, plus the birth dates, social security numbers, addresses and employers of those matched, if that information is available. The department may submit the list for matching no more often than once every calendar quarter.

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To cover the costs of carrying out the requirements of this section, a wireless service provider may assess a reasonable fee to the department not to exceed the actual costs incurred by the wireless service provider.

Public Law 2005, chapter 566 was enacted as an emergency measure effective April 11, 2006.

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| PUBLIC 567 | An Act To Protect Children from Contact with Convicted Sex Offenders | LD 1778 |
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| <u>Sponsor(s)</u> PERRY J | <u>Committee Report</u> OTP-AM | <u>Amendments Adopted</u> S-536 |
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Public Law 2005, chapter 567 creates an additional factor the court must consider in determining the best interests of the child when establishing a parental rights and responsibilities order. The new wording ensures that the court will consider whether one of the parents is residing with a person who has been convicted of a sexual offense or sexual exploitation of a minor or a person who was adjudicated as having committed a sexual offense in a child protective proceeding in which the person was a party. The same applies to a person who was adjudicated as a juvenile as having committed the same types of offenses. Chapter 567 does not affect the judge's discretion in determining the best interests of the child.

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| PUBLIC 572 | An Act To Implement Model Time-share Foreclosure Procedures | LD 1932 |
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| <u>Sponsor(s)</u> HOBBINS KOFFMAN | <u>Committee Report</u> OTP-AM | <u>Amendments Adopted</u> S-557 |
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Public Law 2005, chapter 572 establishes a nonjudicial process for the foreclosure of time-share estates pursuant to a power of sale granted in a mortgage instrument and for the foreclosure of a lien for assessments. Chapter 572 specifies requirements for notice of the foreclosure of a time-share estate, and sale of the foreclosed units. Mortgages on time-share estates that do not contain a power of sale also may be foreclosed by a nonjudicial process if notice is given to the time-share owner and that owner fails to object to the process in a timely manner. A holder of a mortgage who conducts a nonjudicial foreclosure forfeits any right to pursue a claim for deficiency in payment of the time-share owner's obligations resulting from the application of the proceeds of the sale to those obligations. The right to a deficiency is also extinguished when the holder of a security interest in a time-share license conducts a nonjudicial foreclosure.

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| PUBLIC 574 | An Act Regarding Working Waterfront Covenants | LD 1930 |
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| <u>Sponsor(s)</u> DAMON | <u>Committee Report</u> OTP-AM | <u>Amendments Adopted</u> S-556 |
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Public Law 2005, chapter 574 implements authority given to the Land for Maine's Future Board to be a party to working waterfront covenants. It provides the necessary definitions and provisions for creation, conveyance, acceptance and duration of working waterfront covenants, along with provisions for the scope and validity of such covenants, as well as applicability provisions. An existing interest in property is not affected by a covenant unless the owner is a party to the covenant or consents to the covenant. A municipality may bring an action or

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intervene in an action affecting a working waterfront covenant. A court is required, when modifying, terminating or denying equitable enforcement of a working waterfront covenant, to find that, due to a change in circumstance, the covenant no longer serves the public interest in protecting or enhancing the commercial marine fisheries or related businesses in the State. The Attorney General must be made a party to an action to modify, terminate or enforce a covenant. Written notice of an action must be provided to the Commissioner of Marine Resources. Restrictions in the working waterfront covenant apply to uses of the subject real estate and do not limit the types of persons or businesses that may own, lease or use the real estate.

PUBLIC 579 An Act To Clarify Laws Governing Eminent Domain

LD 1870

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| <u>Sponsor(s)</u> | <u>Committee Report</u> | <u>Amendments Adopted</u> |
| SIMPSON | OTP-AM | H-945 |

Public Law 2005, chapter 579 prohibits the use of eminent domain authority for purposes of private retail, office, commercial, industrial or residential development; primarily for the enhancement of tax revenue; or for transfer to individuals and to for-profit business entities. The restriction does not apply to an area upon a finding of blight under current law governing urban development, community development and housing authority programs. The restriction does not apply to utilities. The restriction applies to land currently used for agriculture, fishing or forestry or land improved with residential homes, commercial buildings or other structures.

Public Law 2005, chapter 579 applies retroactively to the date the United States Supreme Court issued the Kelo v. City of New London opinion, which is June 23, 2005.

PUBLIC 580 An Act To Prevent Price Gouging

LD 1892

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| <u>Sponsor(s)</u> | <u>Committee Report</u> | <u>Amendments Adopted</u> |
| MILLS J | OTP-AM | H-875 H-894 SIMPSON |

Public Law 2005, chapter 580 repeals and replaces the current "profiteering in necessities" statute to protect consumers from unconscionably high prices for necessities during abnormal market disruptions. It ties such profiteering to the Maine Unfair Trade Practices Act, authorizing injunctive relief and significant monetary penalties. It establishes the authority of the Governor to declare the existence of an abnormal market disruption in one or more necessities or categories of necessities. During a declared abnormal market disruption, profiteering in necessities is a civil violation and may be prosecuted as a violation of the Maine Unfair Trade Practices Act, except that private remedies are not available. Profiteering in necessities means selling or offering to sell necessities at an unconscionable price.

PUBLIC 587 An Act To Allow Certain End-of-life-care Decision-makers To Consent to Organ and Tissue Donation

LD 1842

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| <u>Sponsor(s)</u> | <u>Committee Report</u> | <u>Amendments Adopted</u> |
| GROSE | OTP-AM | H-890 |

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Public Law 2005, chapter 587 amends the Uniform Anatomical Gift Act to include in the prioritized list of persons who can make decisions about organ donation both agents appointed under a durable health-care power of attorney or an advance health-care directive and registered domestic partners.

PUBLIC 594 An Act To Correct Deficiencies in the Divorce Laws

LD 1812

| <u>Sponsor(s)</u> | <u>Committee Report</u> | <u>Amendments Adopted</u> |
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| MILLS J | OTP-AM MAJ ONTP MIN | H-869 |

Public Law 2005, chapter 594 adds as a ground for divorce that a judicial determination has been made that one of the parties is an incapacitated person, as defined in the Probate Code, for whom a guardian with full powers has been appointed. The court hearing the divorce must appoint a guardian ad litem for the incapacitated person. Chapter 594 also specifies that the trial court in a divorce may issue an order concerning spousal support while the action is pending, including on appeal, and also that the trial court may modify and enforce such orders while the action is pending.

PUBLIC 625 An Act To Implement Recommendations Concerning Temporary Guardian and Conservator Laws

LD 2087

| <u>Sponsor(s)</u> | <u>Committee Report</u> | <u>Amendments Adopted</u> |
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| | OTP-AM | H-1023 |

Public Law 2005, chapter 625 was submitted by the Joint Standing Committee on Judiciary pursuant to Resolve 2005, chapter 91. It is based on recommendations included in the report submitted by the Department of Health and Human Services prepared pursuant to the same resolve. Chapter 625 requires that before a person files a petition for a temporary guardianship or conservatorship, notice of the petition must be given to the allegedly incapacitated person or the person alleged to be in need of protection as well as specific family members or others involved in the life of that person. The specifics of the notice are listed. Notice is not required in certain circumstances. Chapter 625 provides guidance to the Probate Courts in the determination of whether an emergency exists that necessitates the appointment of a temporary guardian or conservator. The court may make such an appointment in order to prevent serious, immediate and irreparable harm to the health or financial interests of the person.

PUBLIC 629 An Act To Prevent Unauthorized Practice of Immigration and EMERGENCY Nationality Law

LD 1996

| <u>Sponsor(s)</u> | <u>Committee Report</u> | <u>Amendments Adopted</u> |
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| CUMMINGS | OTP-AM | H-977 |

Public Law 2005, chapter 629 creates the Immigration and Nationality Law Assistance Act that authorizes nonlegal immigration and nationality law assistance but limits it to certain services defined in the act that do not rise to the level of legal advice or representation. In addition, the act allows federally authorized immigration representatives who are not members of the Maine Bar to provide immigration and nationality law representation in immigration proceedings before federal agencies if authorized by federal law. The act

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prohibits certain activities in the course of providing immigration and nationality law assistance, including representations or advertisements that could cause a customer to believe that the provider of assistance either is authorized to practice law in Maine when the provider is not or possesses special skill or expertise in immigration and nationality law matters when the provider is not a member of the Maine Bar or a federally authorized immigration representative. The law also creates new requirements that a notary public who is not a member of the Maine Bar must follow when advertising notary services in a language other than English, the effect of which is to provide notice to potential customers that the notary is not an attorney and may not give legal advice about immigration or any other legal matter.

Public Law 2005, chapter 629 was enacted as an emergency measure effective May 4, 2006.

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| PUBLIC 630 | An Act To Facilitate the Hiring of Health Care Personnel during Emergency Circumstances | LD 2036 |
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| <u>Sponsor(s)</u> | <u>Committee Report</u> OTP-AM | <u>Amendments Adopted</u> S-615 |
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Public Law 2005, chapter 630 grants private institutions that hire or engage the services of licensed health care workers immunity from civil liability in the event of an extreme public health emergency or a disaster for any actions arising from allegations of inadequate investigation prior to their engagement, including, but not limited to, negligent hiring, credentialing or privileging, for services provided within the scope of such licensure. The private institutions must follow certain procedures in obtaining information about the health care worker in order to receive the immunity. Chapter 630 provides that a person licensed as a health care worker in the State is eligible for civil immunity and workers' compensation insurance coverage during the period the person engages in either an in-state or out-of-state emergency management response under the direction of the Maine Emergency Management Agency.

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| PUBLIC 631 | An Act To Implement the Recommendations of the Freedom of Access Advisory Committee | LD 2111 |
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| <u>Sponsor(s)</u> | <u>Committee Report</u> | <u>Amendments Adopted</u> |
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Public Law 2005, chapter 631 includes recommendations of the Freedom of Access Advisory Committee, established by Resolve 2005, chapter 123, and recommendations of the Joint Standing Committee on Judiciary pursuant to the Maine Revised Statutes, Title 1, section 432. Chapter 631 establishes the Right To Know Advisory Committee, a permanent advisory council representing all levels and branches of government as well as the media and the public. The advisory committee has oversight authority and responsibility for a broad range of activities associated with the purposes and principles underlying the freedom of access laws. The responsibility for reviewing existing public records exceptions, currently a task assigned to the Joint Standing Committee on Judiciary, is shifted to the advisory committee. Flexibility for review of exceptions outside of the listed schedule is provided. The advisory committee may make recommendations for changes in the statute to improve the laws and may make recommendations to the Governor, the Legislature, the Chief Justice of the Supreme Judicial Court and local and regional governmental entities with regard to best practices in providing the public access to records and proceedings and to maintain the integrity of the freedom of access laws and their underlying principles. The joint standing committee of the Legislature having jurisdiction over judiciary matters may report out legislation based on the advisory committee's recommendations. This bill revises the

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schedule for review of existing public records exceptions and includes in the review the question of whether there is a publicly accountable entity with authority to review the activities of the agency or official that collects, maintains and uses confidential information.

PUBLIC 642 An Act To Amend the Laws Concerning Eminent Domain

LD 1203

| <u>Sponsor(s)</u> | <u>Committee Report</u> | <u>Amendments Adopted</u> |
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| SCHNEIDER CROSBY | OTP-AM | S-609 |

Public Law 2005, chapter 642 increases the amount of reimbursement from \$1,000 to \$2,500, consistent with federal changes, paid by the Department of Transportation to a business for actual reasonable expenses for searching for a replacement when the property is taken through eminent domain. It also increases the maximum reimbursement for expenses necessary to reestablish a farm, nonprofit organization or small business from a maximum of \$10,000 to a maximum of \$20,000, consistent with federal changes. The maximum fixed payment for business and farm displacements is increased from \$20,000 to \$100,000. Chapter 642 applies the same reimbursement and displacement payment responsibilities to municipalities when exercising eminent domain authority under the general authorization and for economic development purposes.

Chapter 642 applies to municipalities the same relocation and reimbursement provisions concerning residential takings that currently apply to the Department of Transportation when municipalities exercise eminent domain authority under the general authorization and for economic development purposes.

The Department of Transportation is required to examine the criteria currently used to determine in lieu payments rather than actual relocation costs. The department shall compile information from January 1, 2004 to the present, and determine consequences that would result from changing the criteria to a net operating income basis or other formulation. The department shall report to the joint standing committee of the Legislature having jurisdiction over judiciary matters by January 15, 2007. The committee may report out legislation to the 123rd Legislature.

PUBLIC 654 An Act To Amend the Fees for Probate Filings

LD 1800

| <u>Sponsor(s)</u> | <u>Committee Report</u> | <u>Amendments Adopted</u> |
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| WESTON | OTP-AM | S-617 |

Public Law 2005, chapter 654 raises certain Probate Court filing fees and sets other fees at the same amount charged by the District Court and Superior Court for similar procedures.

PUBLIC 659 An Act To Amend the Law Governing DNA Testing

LD 1907

| <u>Sponsor(s)</u> | <u>Committee Report</u> | <u>Amendments Adopted</u> |
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| PARADIS MARTIN | OTP-AM | H-994 |

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Public Law 2005, chapter 659 amends the postjudgment of conviction motion for DNA analysis procedures in the Maine Revised Statutes, Title 15, chapter 305-B. It expands the universe of convicted persons authorized to seek relief under Title 15, chapter 305-B to those persons who have been convicted of any Maine felony crime and whose actual sentence includes straight imprisonment or imprisonment accompanied by parole, probation, supervised release or administrative release that has not yet been fully served. It provides that a qualifying person who may have previously sought relief under Title 15, chapter 305-B and obtained DNA test results that showed that the person was not the source of the evidence may again seek relief based upon the new standards. It establishes a two-year period of limitation for filing a motion seeking relief under Title 15, chapter 305-B.

Chapter 659 amends the law governing the five things to be demonstrated by the convicted person for a new trial. It includes consideration of what information DNA analysis technology that was not available when the person was convicted is capable of providing with respect to the evidence sought to be analyzed in the event the evidence has been previously analyzed.

Chapter 659 provides three alternative standards for granting a new trial in the event the results of the DNA analysis show the convicted person is not the source of the evidence. The third and final standard, new paragraph C, differs from the first two in that a convicted person need not establish by clear and convincing evidence that only the perpetrator of the crime or crimes for which the person was convicted can be the source of the evidence. Because the convicted person is not required to make such a showing, the standard required under new paragraph C is made up of the five prerequisites for obtaining a new trial based on newly discovered evidence set forth in Maine case law and consistently applied by the Law Court. The convicted person must show all five prerequisites by clear and convincing evidence. In the first and second standards listed as paragraphs A and B, because the convicted person is required to make such a showing, the five prerequisites for obtaining a new trial based on newly discovered evidence are truncated. Under the first standard, new paragraph A, the person must also establish by clear and convincing evidence that the DNA test results, when considered with all the other admitted evidence, old and new, show that the person is actually innocent of the crime or crimes for which the person was convicted. Under the second standard, new paragraph B, the person need not show actual innocence, but instead must establish by clear and convincing evidence that the DNA test results, when considered with all the other admitted evidence, old and new, would make it probable that a different verdict would result upon a new trial. This second standard is like that currently found in Title 15, section 2138, subsection 8, paragraph B.

Chapter 659 adds a definition for "all the other evidence in the case, old and new," as used in new paragraphs A and B and new paragraph C, subparagraph (1). Further, although not expressly stated in paragraphs A and B and paragraph C, subparagraph (1), it is intended that the court, as in any hearing for a new trial based on newly discovered evidence, must determine both weight and credibility to be attached to the newly discovered evidence. It is intended that the Maine Rules of Evidence apply at any hearing conducted under the subsection.

Chapter 659 takes effect September 1, 2006.

PUBLIC 678 An Act To Issue Certificates of Title for Single-unit Mobile Homes

LD 2061

Sponsor(s)

Committee Report
OTP-AM

Amendments Adopted
H-1038

Public Law 2005, chapter 678 recognizes manufactured housing as an important component of the housing industry in the State and as residential property whether it is considered personal property or real property. It establishes a titling program for certain manufactured housing. Excepted from the titling requirements is manufactured housing that is permanently fixed to real property within 30 days of the date of sale. Chapter 678

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establishes a procedure to cancel a certificate of title once the titled manufactured housing is permanently affixed to real property.

Public Law 2005, chapter 678 is effective October 1, 2007.

PUBLIC 682 An Act To Encourage Reporting of Potential Fraud, Waste, LD 1741
Inefficiency and Abuse in State Government

| <u>Sponsor(s)</u> | <u>Committee Report</u> | <u>Amendments Adopted</u> |
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| SCHNEIDER | OTP-AM | H-1081 SIMPSON |
| SMITH N | | S-543 |

Public Law 2005, chapter 682 establishes confidentiality protections for certain information if the State Auditor creates a hotline or other referral service for the confidential reporting of fraud, waste, inefficiency and abuse in State Government. The identity of a person making a complaint alleging fraud, waste, inefficiency or abuse in State Government to a hotline or other referral service is confidential, except that the person making the complaint may allow disclosure. The content of the complaint and any resulting investigation are confidential, except that the State Auditor shall publish a report of each complaint alleging fraud, waste, inefficiency or abuse within 120 days of receiving the complaint. In addition, the State Auditor must submit an annual summary of the complaints made to the hotline or other referral service. Chapter 682 requires coordination between the State Auditor and the director of the Office of Program Evaluation and Governmental Accountability, and specifically gives the director access to confidential information to be shared by the State Auditor. The provisions relating to the State Auditor are repealed July 1, 2009.

Chapter 682 requires (in unallocated law) that the State Auditor, the director of the Office of Program Evaluation and Governmental Accountability and the Attorney General jointly establish criteria for the referral of complaints and the coordination of response.

PUBLIC 683 An Act To Correct Errors and Inconsistencies in the Laws of LD 2055
EMERGENCY Maine

| <u>Sponsor(s)</u> | <u>Committee Report</u> | <u>Amendments Adopted</u> |
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| | OTP-AM | H-1085 |
| | | H-1101 SIMPSON |
| | | H-1102 SIMPSON |
| | | H-1103 SIMPSON |
| | | H-1110 SIMPSON |
| | | H-1111 SIMPSON |
| | | H-1112 SIMPSON |
| | | H-1118 SIMPSON |
| | | H-1119 SIMPSON |

Public Law 2005, chapter 683, in Parts A and B, corrects technical errors and inconsistencies in the Laws of Maine. Parts C, D, E, F, G, H and I make changes that are or could be considered substantive.

Part C makes the following changes:

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1. Clarifies the capacity of the deputy treasurer of state to vote on boards when the Treasurer is absent;
2. Corrects inconsistencies that were created by Public Law 2005, chapter 343, which changed the composition of the Pharmaceutical Cost Management Council but did not change the number of members to coincide with the change in the composition of the council;
3. Amends the law creating a private right of action for damages for illegal wagering to cover all wagers for which a license is required. This covers all horse racing for which wagers may be accepted by a licensee in this State. The current law limits the illegal wagering to harness racing;
4. Corrects an error in the laws governing mandatory building standards for residential construction by changing references to the Department of Economic and Community Development to references to the Public Utilities Commission;
5. Corrects formatting errors to reflect the intent of the original law concerning Probate proceedings;
6. Corrects a cross-reference concerning the duties and powers of personal representatives;
7. Amends the Maine Uniform Trust Code to carry out the original intent concerning a trust settlor's options regarding the provision of information to beneficiaries;
8. Amends the fee schedule for copies of certain documents provided by municipal clerks;
9. Conforms language within the Emergency Medical Services laws to technical drafting standards and classifies a violation as a Class E crime;
10. Clarifies the appropriation in Public Law 2005, chapter 519, Part GGG, section 1, which appropriated funds to two newly built hospice facilities and identifies certain details of the plan grantees must submit to the Department of Health and Human Services. The Department of Health and Human Services is required to submit a report to certain joint standing committees of the Legislature identifying how the grant funds were utilized by the grantees;
11. Corrects an error in Public Law 2005, chapter 519, Part UUU, section 2, which deappropriated funds from the All Other line category in fiscal year 2005-06 concerning education in the Unorganized Territory. The funds should have been deappropriated from the Personal Services line category; and
12. Directs the Board of Environmental Protection to amend chapter 335: Significant Wildlife Habitat, a major substantive rule, by changing a date contained in one of the criteria for determining whether a shorebird feeding or staging site qualifies as significant shorebird habitat from 1989 to 1987.

Part D clarifies that the Consolidated Emergency Communications Fund created in Public Law 2005, chapter 519, Part OO applies to all municipal, county and state governmental units, not just Kennebec County and allows for the establishment of positions when any governmental unit voluntarily consolidates communications systems. Part D also corrects the name of the Consolidated Emergency Communications Bureau. This Part is retroactive to the effective date of the public law.

Part E corrects a reference to the number of members of the Professional Standards Board and corrects a cross-reference by adding a subsection reference that was omitted.

Part F provides for the protection of proprietary information by the Department of Marine Resources under the Maine Working Waterfront Access Pilot Program.

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Part G changes the date for the new voting procedure for smoking in private clubs from August 1, 2006 to September 1, 2006 and makes the same change in the transition section. It also changes the duration of the vote's authority to September 1, 2008.

Part H authorizes school administrative units to expend state funds provided for new minimum teacher salaries and for salary supplements for national board-certified teachers without calling for a special meeting of the local legislative body. These provisions apply to fiscal year 2006-07 only.

Part I corrects two references in the formula for calculation of county and municipal spending growth limitations by specifying that adjustments for changes in state funding are calculated by multiplying the prior year's funding by one plus the growth limitation factor.

Public Law 2005, chapter 595 provided that rules adopted by the State Board of Education pertaining to the approval of major capital secondary school construction projects be designated as major substantive rules effective January 1, 2007. Part J deletes the reference to secondary schools in the enacted law because the intent of the Legislature was to amend the Chapter 61 State Board of Education rules that pertain to the approval of major capital construction projects for elementary and secondary schools.

Part K designates the name of T11 R14 WELS as Clayton Lake as of January 1, 2007.

Part L clarifies that the prohibition on networking of voting machines does not apply to the connection of individual voting devices to a central server using a wired, point-to-point telephone connection that is not Internet-enabled when the central server is operated or managed by the Secretary of State. This is to allow compliance with the federal Help America Vote Act of 2002, which requires the provision of voting systems equipped for individuals with disabilities. This new language is repealed 90 days after the adjournment of the First Regular Session of the 123rd Legislature.

Part M removes the language that exempts from the General Fund appropriation limitation the state costs of the Retired County and Municipal Law Enforcement Officers and Municipal Firefighters Health Insurance Program (Public Law 2005, chapter 636).

Public Law 2005, chapter 683 was enacted as an emergency measure effective June 2, 2006.

RESOLVE 169 **Resolve, Concerning the Authority of "Do Not Resuscitate"**
EMERGENCY **Directives**

LD 1763

Sponsor(s)
BRYANT B
BRYANT M

Committee Report
OTP-AM

Amendments Adopted
S-522

Resolve 2005, chapter 169 addresses an individual's informed decision to refuse resuscitation. It directs the Department of Public Safety, Medical Direction and Practices Board to revise the Maine Emergency Medical Services protocols to allow emergency medical services providers to honor an individual's decision to refuse resuscitation if that decision is made available in an individual instruction that shows informed consent to the decision. The protocols must result in forms that are clear and can be made immediately available to emergency medical services providers.

Resolve 2005, chapter 169 directs the Director of Maine Emergency Medical Services within the Department of Public Safety to report by January 15, 2007 to the joint standing committee of the Legislature having

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jurisdiction over judiciary matters about the change in protocols, the forms and the instructions developed to implement and complement the protocols, educational initiatives undertaken and planned and any recommended legislation.

Resolve 2005, chapter 169 authorizes the joint standing committee of the Legislature having jurisdiction over judiciary matters to submit legislation to the 123rd Legislature concerning advance health-care directives and "do not resuscitate" decisions.

Resolve 2005, chapter 169 was finally passed as an emergency measure effective April 7, 2006.

RESOLVE 200 Resolve, To Create the Human Trafficking Task Force
EMERGENCY

LD 1296

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|-------------------|-------------------------|---------------------------|
| <u>Sponsor(s)</u> | <u>Committee Report</u> | <u>Amendments Adopted</u> |
| MARRACHE | OTP-AM | H-864 S-534 HOBBS |

Resolve 2005, chapter 200 creates the Human Trafficking Task Force and directs it to propose criminal statutes. The task force will also review current programs and services for victims of human trafficking, collect research and information on trafficking victims and evaluate approaches to increasing public awareness, review legislation concerning "bride trafficking" and "international matchmaking organizations," address the reduction of barriers faced by victims of trafficking who may seek assistance and make recommendations on methods to provide a coordinated system of support to persons who are victims of trafficking. The task force must seek outside funding. The task force shall report no later than November 30, 2006 and may submit legislation.

Resolve 2005, chapter 200 was passed as an emergency measure effective April 28, 2006.